



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,999	12/16/2003	Gavriela D. Lavie	5760-14800	5749

35690 7590 11/03/2006

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN, TX 78701

EXAMINER

RAYYAN, SUSAN F

ART UNIT PAPER NUMBER

2167

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,999

Applicant(s)

LAVIE ET AL.

Examiner

Susan F. Rayyan

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

2. Claims 1-25 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6,9-14,17-22,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Number 2002/0184065 issued to Cody Menard et al ("Menard") and US Patent Number 6,782,345 B1 issued to Siegel et al ("Siegal").

As per claims 1,9,17,25 Menard teaches:

detecting a change to a computing environment (see paragraph 38 lines 2-5, as identify patterns of data which allow for determining state of the system or problems that may be present);

predicting a set of outcomes resulting from said change (paragraph 39, predictive analysis estimates the time available until resources are depleted or until a failure occurs).

Menard does not explicitly teach monitoring the computing environment to determine whether any of the set of outcomes has occurred and reporting that one or more of the predicted set of outcomes has occurred. Siegel does teach these limitations (see column 11 lines 50-60, re-initiating the diagnostic to verify the diagnostic to verify the system is operating within the specifications when operating according to revised parameters and paragraph 8, lines 10-20) to verify that the system is operating within the specifications : It would have been obvious to one of ordinary skill in the art at the time of the invention to combine monitoring the computing environment to determine whether any of the set of outcomes has occurred and reporting that one or more of the predicted set of outcomes has occurred with Menard to verify that the system is operating within the specifications (column 11, lines 54-55).

As per claims 2,10,18, same as claim arguments above and Menard teaches:
wherein the set of outcomes is predicted based on a set of predictive rules (paragraph 50, lines 14-29, predictive analysis engine).

As per claims 3,11,19 same as claim arguments above and Menard teaches:
wherein determining whether any of the set of outcomes has occurred comprises comparing the performance of the computing environment after the change to a historical baseline (paragraph 14, evaluating monitored system performance data points against the baseline system behavior files to identify datasets that have changed).

As per claims 4,12,20 same as claim arguments above and Menard teaches:
wherein said reporting includes making recommendations on alternate changes to the computing environment (paragraph 50, lines 25-29, corrective action selected for a particular problem and running the corrective script automatically or by user initiation).

As per claims 5,13,21 same as claim arguments above and Menard teaches:
wherein said reporting includes a summary of said historical baseline (paragraph 39, analysis displays a graph of data points over time).

As per claims 6,14,22 same as claim arguments above and Menard teaches:
wherein the complex computing environment is a database, and wherein the method further comprises recording information about the database, wherein the information includes the number and type of transactions carried out by the database, timing information associated with each transaction, and information on changes to user settings, database definitions, and schema definitions within the database (paragraph 53, monitor Oracle database activity).

Claims 7-8,15-16,23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Number 2002/0184065 issued to Cody Menard et al ("Menard") and US Patent Number 6,782,345 B1 issued to Siegel et al ("Siegal") in view of US Patent Application Number 2005/0097149 issued to Lev Vaitzblit ("Vaitzblit").

As per claims 7,15,23 same as claim arguments above and Menard and Siegel do not explicitly teach wherein the information is recorded by a sampling technique. Vaitzblit does teach wherein the information is recorded by a sampling technique (paragraphs 77-78) to establish patterns and detect abnormalities. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Menard and Siegal with wherein the information is recorded by a sampling technique to establish patterns and detect abnormalities (paragraph 19).

As per claims 8,16,24 same as claim arguments above and Menard and Siegel do not explicitly teach multiple databases on the recorded effects of various changes. Vaitzblit does teach this limitation (paragraph 45, lines 1-7). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to establish patterns and detect abnormalities (paragraph 19).

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (571) 272-1675. The examiner can normally be reached M-F: 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Susan Rayyan

October 31, 2006


JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100